mere license, a right of way, or an easement. *Hancock v. McAvon*, 151 Pa. St. 460. The English courts formerly treated all grants of minerals as incorporeal hereditaments because no livery of seisin could be made, but the general rule to-day is that such a grant passes an interest in land. *Caldwell v. Fulton*, 31 Pa. 475; *Fairchild v. Dunbar Furnace Co.*, 128 Pa. 497. In some cases, however, grant of right to take minerals from land, not being exclusive right to mineral products is considered a mere license. *Silsby v. Trotter*, 29 N. J. Eq. 228. But see *Beatty v. Gregory*, 17 Iowa, 109, where licensee, after entry and expenditure of labor and money, was allowed to maintain ejectment.

EQUITY—CANCELLATION OF INSTRUMENTS—FRAUD—REMEDY AT LAW. WILSON ET AL V. MILLER, 39 SOUTHERN, 178 (ALA.). *Held*, that the deed, under which a plaintiff claims in ejectment, will not be cancelled, on the ground that the deed and record have been fraudulently altered. Haralson, J., *dissenting*.

If an action at law on an instrument in writing can be fully defended on the ground that it was obtained by fraud, the defendant cannot file a bill for the cancellation and surrender of the document. *Cable v. U. S. Life Ins. Co.*, 191 U. S. 288. In actions of ejectment defendant may show invalidity or fraud of plaintiff's title. *Sherman v. Buick*, 93 U. S. 209; *Rogers v. Brent*, 10 Ill. 573. If there is an action pending against one in a suit at law wherein his title may be put in issue and established, there is no equity in a bill to quiet title, and such a bill will be dismissed. *Normant v. Eureka Company*, 39 Am. St. Rep. 45. Equity will entertain jurisdiction to remove cloud where complainant is in possession or from other cause without adequate legal remedy. *I. Story Eq. Juris.* Page 745, Note A; *Sullivan v. Finnegan*, 101 Mass. 447. In order that equity may cancel a deed it must constitute a cloud on title. In other words, it must be *prima facie* evidence of title. *Bispham's Equity*, 449.

EVIDENCE—COMPELLING PRODUCTION OF DOCUMENTS—SUBPŒNA DUCES TECUM.—MILLER V. MUTUAL RESERVE FUND LIFE ASSN., 139 FED. 864.—Where a *subpœna duces tecum* required the production of a large list of books and papers, many of which apparently can have no bearing on the issues raised by the pleadings, *held*, that the court will not punish the party for contempt for failure to obey the *subpœna*, but the party applying will be required to take out separate *subpœnas*, each of which may then be considered on its merits.

The judge in this case evidently considered the spirit much more than the letter of the law as the general rule is in line with the statutory provisions that the party must attend with the documents demanded and leave the question of their admission to the discretion of the court. *Reynolds on Ev.*, p. 168; In *ex parte Brown*, 7 Mo. App., 484, a manager of a telegraph office refused to produce his dispatch files, attempting to excuse himself under a statute which provided for punishment of any officer or servant of a telegraph company disclosing the contents of a dispatch, but he was obliged to produce the files or be in contempt. The penalty laid down in *Col. Fire Co. v. Purcell*, 25 La. Ann., 283, was that the party not producing books and papers under the *subpœna* should not be in contempt, but that the facts stated in the application may be taken as proved. Nor may an attorney refuse to submit his client's papers under his privilege as attorney, as this would be assuming

the right of the court which alone can determine the question of privilege in each case. *Mitchell's Case*, 12 Abb. Prac. (N. Y.).

EVIDENCE—DECLARATION OF AGENT AFTER CONCLUSION OF AGENCY—ADMISSIBILITY.—BURBANK V. HAMMOND, 75 N. E. 102 (MASS.).—*Held*, that a letter of a land broker written after the consummation of a sale, and tending to show that he knew of false representations made therein, is inadmissible, although the broker is still employed to care for the property.

While it is beyond controversy that declarations to be admissible must constitute a part of the *res gestae*, courts are not harmonious in decisions as to what constitutes a part of the transaction. The declaration of an agent that land was not as he had supposed and had represented is inadmissible after the deal has been closed, although it appears that both buyer and agent were deceived. *Lake v. Tyree*, 90 Vir. 719. While evidence of what an agent said relative to a past transaction is not admissible to prove the contract itself it is competent to contradict the agent's statement that no such contract was, in fact, made. *Stenhouse et al. v. C. C. & A. R. R.*, 70 N. C. 542; although the agent may continue in the principal's employ. *McComb & Wallace's Admr's. v. N. C. R. R. Co.*, 70 N. C. 178. That modern cases have relaxed the rule requiring "perfect coincidence" would appear from dissenting opinion in *Vicksburg, etc., R. R. Co. v. O'Brien*, 119 U. S. 99.

EVIDENCE—PRIVILEGED COMMUNICATIONS.—BROWN V. MOOSIC MT. COAL CO., 61 ATL. 76 (PA.).—*Held*, that where two persons employ the same attorney, communications to him are not privileged *inter se*.

This is an exception to the rule that communications between attorney and client are privileged. It is well supported. *Doheny v. Lacy*, 168 N. Y. 213; *Bauers' Estate*, 79 Cal. 304. So where both parties are present, *Hanlon v. Doherty*, 109 Ind. 37; *Cody v. Walker*, 62 Mich. 157. And where terms of compromise are offered a client's creditors, *McTarish v. Denning*, Anth. N. P. 155. But the communications are privileged when parties employ the same attorney for adverse interests. *Bowers v. Briggs*, 20 Ind. 139, *Hull v. Lyon*, 27 Mo. 570; as are also communications by one of two joint defendants under arrest to their joint attorney. *Jahnke v. State*, 94 N. W. 158 (Neb.).

FRAUDULENT CONVEYANCES—DEBTS.—VREELAND V. ROGERS, ET AL., 61 ATL. 486 (N. J.).—A judgment creditor attempted to attach property conveyed by the defendant prior to the judgment, on the ground that the conveyance was void as in defraud of creditors. *Held*, the onus was on the complainant to show fraud.

The burden of proving fraudulent intent is on a subsequent creditor who impeaches a voluntary conveyance. *State Bank of Chase v. Chalton*, 69 Kan. 435. *Loeschigk v. Addison*, 4 Abb. Practice, U. S. 210; *Wynn v. Mason*, 72 Miss. 424. *Lewis v. Simon*, 72 Tex. 470, even goes so far as to say that a subsequent creditor cannot attack the conveyance as fraudulent. It is proper to instruct the jury that the presumption is against fraud in such a conveyance. But by statute in some states, where the property does not actually change hands, the onus is on the grantee to show good faith. *Seidenbach v. Riley*, 111 N. Y. 560; *Car v. Johnson*, 59 Hun. 620.

INJUNCTION—ADEQUATE LEGAL REMEDY—MAINTENANCE OF RAILROAD STATION.—JACQUELIN ET AL. V. ERIE R. CO., 61 ATL. 18.(N. J.).—*Held*, the right, if any, to compel a railroad to maintain a station at a certain point is a legal one,